

COMMONWEALTH OF MASSACHUSETTS, Deval L. Patrick, Governor
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS, Ian A. Bowles, Secretary
DIVISION OF CONSERVATION SERVICES, Robert O'Connor, Director

OUTDOOR RECREATION PROGRAM Joint Grant Application Package

**Massachusetts Urban Self-Help Program
Strategic Urban Recreation Fund
Federal Land and Water Conservation Fund
Application Package
Fiscal Year 2008**

**GRANT APPLICATION DEADLINE:
Tuesday, July 31, 2007 by 3:00 PM**



Division of Conservation Services
100 Cambridge St, Suite 900
Boston, MA 02114
Robert O'Connor, Director
Website: www.mass.gov/envir/dcs

Contact: Melissa Cryan
Grant Manager
Phone: (617) 626-1171
Fax: (617) 626-1181
Email: melissa.cryan@state.ma.us

Save paper and money – please print this document using a double-sided printer setting

This package contains the following information you will need to file an application to acquire recreation land or develop/renovation recreation land. Remember: electronic filings will not be accepted.

- ◆ Secretary's Announcement Letter
- ◆ DCS Director's Memo to Prospective Applicants
- ◆ Outdoor Recreation Projects Application Step Procedures
- ◆ Outdoor Recreation Projects Application Form
- ◆ Outdoor Recreation Projects Selection System
- ◆ Sample Municipal Vote
- ◆ Appraisal Report Requirements
- ◆ Urban Self-Help Program Regulations
- ◆ Attachment A: Boundary Map Guidelines
- ◆ Attachment B: LWCF Proposal Description and Environmental Screening Form

*******SAVE THE DATE*******

DCS will host a "How-To" workshop to help you prepare an application on Wednesday, May 30, 2007 from 10:00 am to 12 noon in Boston at 100 Cambridge Street, Conference Room D, Second Floor. RSVP at (617) 626-1171, or contact melissa.cryan@state.ma.us.



Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Tel: (617) 626-1000
Fax: (617) 626-1181

April 2007

Re: FY2008 DCS Annual Grant Round

Dear Prospective Applicant:

I am pleased to announce that my office, through the Division of Conservation Services (DCS), **in anticipation of, and contingent upon, the availability of funds,** will conduct the annual Fiscal Year 2008 grant round for the state Self-Help and Urban Self-Help Programs and for the federal Land and Water Conservation Fund Program. The filing deadline for each program is 3 p.m. on Tuesday, July 31, 2007.

Self-Help Program (Conservation Projects)

The Self-Help Program provides funds to municipal conservation commissions for the purchase of conservation land. The priority for this year's Self-Help grant round will be for the protection of coastal and estuarine property; sensitive stream, river, lake and pond watersheds; and biological conservation (especially rare species habitats). Projects which fall under lands mapped in the Statewide Land Conservation Plan, and those that augment or connect to existing conservation lands, and thereby help to preserve the integrity and health of the local or regional ecosystems, will receive greater consideration for funding.

Urban Self-Help Program (Park Projects)

The Urban Self-Help Program assists cities and urban towns with the acquisition of parkland, as well as construction of new parks and renovation of existing parks. The priorities for this year's Urban Self-Help grants include new park development especially on land reclaimed by dam removal or brownfield site clean-up, and projects that provide recreational opportunities to urban populations. Projects that serve to stabilize neighborhoods or are part of urban center revitalization efforts will be given special consideration as will those that demonstrate innovative stormwater control systems. Small towns may qualify for these grants where projects are designed to provide statewide or regional recreational facilities or up to a maximum grant of \$50,000 for smaller recreational projects.

Land and Water Conservation Fund Program (LWCF) (Conservation or Park Projects)

This federal grant program funds conservation or park projects submitted from both municipal and state agency project sponsors. The federal program is being announced in anticipation of a congressional appropriation. The federal program is open to the Massachusetts Department of Conservation and Recreation and the Massachusetts Department of Fish and Game. Municipal projects may be considered for funding under both the federal LWCF program and the appropriate DCS program – but can only be approved for funding through one of the programs. Municipalities must indicate on their application that they wish to be eligible for either program. State agency applications and any municipal application seeking LWCF funds will be rated and ranked using the Land and Water Conservation Fund Rating Sheet (attached). EOEEA reserves the right to fund a municipal project from the program source it deems most appropriate and most beneficial to the overall needs of the Secretariat.

Please contact DCS at (617) 626-1011, if you wish to learn more about these grant programs and to request an application package. More information and application forms may also be found on the DCS web page at www.mass.gov/envir/dcs. I invite each and every community to take advantage of this opportunity, and thank you for your partnership in land conservation and public outdoor recreation.

Sincerely,

Ian A. Bowles
Secretary



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

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Tel: (617) 626-1000

Fax: (617) 626-1181

MEMORANDUM

TO: Prospective Applicant
FROM: Robert O'Connor, DCS Director
SUBJECT: FY2008 DCS Annual Grant Round
DATE: April 2007

Thank you for your interest in the FY08 Grant Round for the Self-Help, Urban Self-Help, and Land and Water Conservation Fund Programs as announced recently by Environmental Affairs Secretary Ian Bowles. The enclosed application package will give you a complete overview of the grant program. Please read it carefully.

Reimbursement Rates

The maximum reimbursement available from both the Self-Help and Urban Self-Help programs is based on your community's equalized valuation per capita decile rank and ranges from 52% to 70% of the total project cost. The maximum grant award for any project has been set at \$500,000, but may be raised or lowered at the discretion of the Secretary. The federal Land and Water Conservation Fund reimburses up to 50% of the total project cost with a maximum grant award of \$500,000.

Eligible Cost Policy for FY08

The Division's eligible cost policies were revised to maintain consistency with state procurement law. Be sure not to close on the property until your application has been successful and you have an executed contract with DCS. Acquisition projects must be completed and closed out by June 30, 2008. Park development projects may be done over two state fiscal years, but must be completed by June 30, 2009.

DCS will offer a "how-to" workshop on Wednesday, May 30, 2007 from 10:00 am to 12:00 pm in Boston at 100 Cambridge Street, on the second floor. I strongly recommend that you attend the workshop if you plan to apply and ask you to RSVP at (617) 626-1011. The workshop presentation and answers to any questions received in writing between May 9th and June 30th will be posted on the DCS website. Only questions submitted in writing or asked at the workshop will be addressed by EOEEA staff. Be sure to study the enclosed information, understand the program obligations, check to determine if your community and project are eligible for assistance, and contact DCS with any questions.

Grant Award Schedule:

Application Release Date:	April 2, 2007
Workshop Date:	May 30, 2007
End of Question Period:	June 29, 2007
Application Deadline:	July 31, 2007
Site Inspections:	Completed by September 10, 2007
Award Announcement:	Anticipated announcement on or about 60 days from Application Deadline
Project Completion:	June 30, 2008 for Land Acquisition Projects, June 30, 2008 or June 30 2009 for Park Development Projects

OUTDOOR RECREATION PROGRAM
Massachusetts Urban Self-Help Program
Strategic Urban Recreation Fund
Land and Water Conservation Fund Program
Application Step Procedures

1. Municipality (the “Participant”) requests an Outdoor Recreation Project Application Package from the Division of Conservation Services before purchasing land, for an acquisition project, or before construction begins, for a renovation or development project. Confirm deadline for applications. Information on the grant round is available online at www.mass.gov/envir/dcs.
2. Participant files one original and two copies of the complete application, clearly marking the original. No electronic filings will be accepted. Projects involving renovations of the same theme in multiple parks, such as resurfacing playgrounds, may be packaged into one application. Unrelated renovations must be submitted as individual applications.
3. For Park Acquisition Projects: Participant submits draft warrant article or Council order to the Division for review before Town Meeting or City Council vote. Municipal counsel should be consulted in drafting the warrant article, order of taking, or city council order. The draft municipal vote must cite the particular parcel to be acquired or developed/renovated and contain authorization to seek funding under M.G.L. Chapter 933 Acts of 1977, as amended, and to enter into any contracts for the project, as well as permit the conveyance of a conservation restriction if a CR is applicable to the project.
4. Participant will be contacted by DCS to schedule a site inspection.
5. Projects evaluated using either DCS and/or LWCF evaluation criteria if an applicant has applied for both programs. Merit point rating assigned by Division of Conservation Services followed by review by the Executive Office of Energy and Environmental Affairs Interagency Lands Committee. Interagency review is designed to identify statewide or regional interagency interests in projects and to review the point rating for the purpose of making final funding recommendations, with or without conditions, to the Secretary.
6. Application scores are reviewed and approved with or without special conditions, or rejected by the Secretary. Funding under either Urban Self-Help or LWCF programs determined.
7. Urban Self-Help Funded Projects:
 - a. Project approval letter, Urban Self-Help Project Agreement, State Standard Contract, and billing forms for approved projects are sent to Participant by DCS. State funds are then obligated by the Commonwealth upon execution of contract documents for approved projects.
8. LWCF Funded Projects:
 - a. DCS submits the final application package to the National Park Service for federal project agreement approval.
 - b. After NPS approves the federal project agreement, DCS executes similar documents with the Participant. Project approval letter, LWCF Project Agreement and State Standard Contract, and billing forms for approved projects are sent to Participants by DCS. State funds are then obligated by the Commonwealth upon execution of contract documents for approved projects.
9. Municipal Funding.
 - a. Municipality votes to appropriate, expend from available funds, or borrow an amount equal to the **total project cost** stated in the application. A municipality may vote to borrow funds in anticipation of state reimbursement prior to receiving agreement for reimbursement (M.G.L. Chapter 44, §8C), but the borrowing cannot actually take place until final state approval has been received. Municipal vote for the total project cost may take place prior to Step 1 in the application process, but the municipality must ensure proper compliance with the Urban Self-Help application procedures. Approval may be withdrawn if municipality’s vote fails or if municipality exhibits lack of progress in obtaining this vote or in meeting time schedules established as part of approval conditions.
 - b. Exclusive of borrowing situations, and if the community wishes, reimbursements may be re-appropriated back into the participant’s Conservation Fund or dedicated fund. Said authorization may be voted in the original article or submitted in subsequent Town Meeting or City Council votes; otherwise, reimbursements must be deposited into the General Fund as per Massachusetts General Law. Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, should consult with the Department of Revenue, Division of Local Services for guidelines.

10. Participant files all required permits, final construction plans, and specifications for park development projects for DCS approval. EOEEA reserves the right to alter or rescind an award based on permit findings and construction plans and specifications.
11. State Procurement Law: Acquisition projects must adhere to the state's procurement laws, M.G.L. Chapter 30B. Work with your municipal procurement officer to ensure that your project conforms to the procurement law that will include advertising in the Central Register 30 days prior to closing. State procurement law also prohibits EOEEA from reimbursing for any costs, including design, incurred prior to the starting date on the state standard contract. Do not incur any costs for which you plan to submit a reimbursement request until you have a fully executed state standard contract.
12. Participant makes land purchase or begins park development *only after* having received an affirmative Town Meeting or City Council Vote, and an executed state standard contract from the Secretary of Environmental Affairs.
13. Participant files billing forms with the Division, along with required documentation. Partial payments may be requested. An Urban Self-Help acknowledgement sign must be in place at the main access point before final payment will be made.
14. Billing form, requests for reimbursements, and documents must be reviewed by the Division for any changes from the project application, completeness and accuracy. A corrective amendment to the project agreement will be executed and returned for signing and recording by the Participant if the project has changed. (A final inspection of the project is conducted prior to final payment.)
15. Report to Secretary by Director on billing and request for approval.
16. DCS prepares invoice and submits for payment to EOEEA's fiscal staff.
17. Payment is made. Participant receives reimbursement, via electronic transfer.
18. Participants should review DCS Post Completion requirements regarding fees, user limitations, and prohibitions against converting the parkland to any other use or transfer of ownership.

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES
Filing Deadline: Tuesday, July 31, 2007 by 3:00 pm**

For DCS Office Use Only:
Urban Self-Help # _____
Total Project Cost: \$ _____
Reimbursement Rate _____ %
Grant Request \$ _____
Approval Date _____
Grant Award \$ _____

**OUTDOOR RECREATION PROJECTS
Massachusetts Urban Self-Help and Strategic Urban Recreation Fund
Federal Land and Water Conservation Fund
APPLICATION FORM – FY08 ANNUAL GRANT ROUND**

Program Regulation Reminder: it is understood that any property acquired or developed with urban self-help grant assistance is open to all citizens of the commonwealth, and that no major alteration of this property, or changes in the proposed uses can take place without the prior approval of the secretary of the Executive Office of Energy and Environmental Affairs, and where necessary by The National Park Service and the General Court. All properties for which grant assistance is provided must be open to the general public (not residents only) for appropriate recreational use and must be protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to public outdoor recreational use.

Eligibility – communities must:

- 1) *Have an approved or draft Open Space and Recreation Plan on file with the Division of Conservation Services (if a draft is submitted, a condition of final payment will be to obtain DCS approval of the final report);*
 - 2) *Have no unresolved protected open space conversion issues with the Executive Office of Energy and Environmental Affairs. (see EOEEA Article 97 Disposition Policy at:
<http://www.mass.gov/envir/mepa/fourthlevelpages/article97policy.htm>).*
- ❖ Projects involving renovations of the same theme in multiple parks, such as resurfacing playgrounds, may be packaged into one application. Unrelated renovations must be submitted as individual applications.
 - ❖ Municipality's portion of the Urban Self-Help grant cannot come from any other state funding source. (CPA funds CAN be used for the municipality's portion of the cost.)
 - ❖ DCS will host a "How-To" workshop on Wednesday, May 30, 2007 from 10:00 am to 12:00 pm in Boston at 100 Cambridge Street, Conference Room, Second Floor. RSVP at (617) 626-1171 or email melissa.cryan@state.ma.us. Both the workshop presentation and answers to questions received will be posted on the DCS website.

SUBMITTING APPLICATIONS:

All Applications are due no later than 3:00 pm on Tuesday, July 31, 2007. Any application received after the deadline will be rejected. A postmark will NOT be accepted for verification of date of submission. Applications will NOT be accepted by fax machine or electronic mail. The outside of the package holding the Application and copies should be clearly marked: **FY08 URBAN SELF-HELP GRANT ROUND**. One original and two (2) copies of the application must be submitted to:

Melissa Cryan
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Only the original submission must be provided in hard copy format and include the appraisal report(s), if applicable. The copies of the application may be submitted as one concise document (including maps) in digital format compatible with Microsoft Office 2000 or Adobe Acrobat, and no additional copies of the appraisal report(s) are required. Applicants considering delivering documents to EOEEA by hand are reminded that Boston is experiencing significant construction in the Government Center area and travel delays should be anticipated. Please allow plenty of time for travel into and out of the city. Applications will be accepted PRIOR to the deadline.

The application package contains the following documents. Each document contains important information on the application and the grant program in general. Be sure to read the entire package prior to applying for grant funding.

- ◆ Secretary's Announcement Letter
- ◆ DCS Director's Memo to Prospective Applicants
- ◆ Outdoor Recreation Program Application Step Procedures
- ◆ Outdoor Recreation Program Application Form
- ◆ Outdoor Recreation Project Selection System
- ◆ Regional and Statewide Usage Report
- ◆ Sample Municipal Vote
- ◆ Appraisal Report Requirements
- ◆ Program Regulations
- ◆ Attachment A: Boundary Map Guidelines
- ◆ Attachment B: LWCF Proposal Description and Environmental Screening Form

Grant Award Schedule:

Application Release Date:	April 2007
Workshop Date:	May 30, 2007
End of Question Period	June 29, 2007
Application Deadline:	July 31, 2007
Site Inspections:	Completed by September 10, 2007
Award Announcement:	Anticipated announcement on or about 60 days from Application Deadline
Project Completion:	June 30, 2008 or June 30, 2009, depending on the project

OUTDOOR RECREATION PROJECT APPLICATION FORM FY2008

1. **Municipality or State Agency Department Name:** _____
Population (2000 U.S. Census): _____

2. **Project Name:** _____

Type of Project:

☐ Acquisition – acreage _____ ☐ New Development ☐ Renovation

Has this site received previous assistance: ☐ Yes ☐ No

3. **Contact Person:** _____

Agency: _____

Address: _____

_____ Zip _____

Telephone (_____) _____ Fax (_____) _____

Email: _____

Please note: the contact person is the official representative for this project as authorized under item #14(b) of this application, usually not the chief municipal officer.

4. **Briefly describe the project on ONE attached page.** Use the Outdoor Recreation Project Rating System as an outline for the description, as well as the items bulleted below, to ensure the maximum score possible for your project.

a.) Acquisition Projects:

- concise natural resource description including wildlife habitat, water resources, and soils
- rare species (include letter from NHESP)
- state designated Area of Critical Environmental Concern (ACEC)
- unique geologic or landscape feature
- historic or archaeological resource (include letter from MHC)

b.) Development or Renovation Projects

- describe facilities being developed
- describe community needs
- acres dedicated as park land
- site's interpretive services, environmental education
- brownfield projects must submit 21E evaluation
- innovative water recharge and reuse component
- environmental restoration project

c.) All Projects:

- accessibility for the disabled
- long-term detailed site maintenance/management plan that includes sources of funding and/or partnerships
- link to other recreation or conservation sites
- contains resources identified in the Watershed Action Plan
- water based recreation (include linear footage bordering water resource)
- cooperation of any other governmental agency (state, federal, county) or private nonprofit, fiscal or other
- located in a high growth area, high density area, Environmental Justice neighborhood, or town/city center
- access to a public transportation route and other urban center services
- component of an affordable housing project
- regional or statewide facility (communities applying either category should submit a Usage Report)
 - serves a regional population of 35,000 which reside within a radius of 25 miles
 - serves one or more urban area's residents living within one-hour driving radius
 - parking for 100 vehicles for regional status
 - parking for 200 vehicles for statewide status
 - provides adequate comfort stations and potable water outlets
 - serves all age groups (for either regional or statewide status)

5. Proposed Funding:

The Urban Self-Help program is a **reimbursement** program. Grant recipients are reimbursed after invoices have been paid. **The total project cost must be raised or appropriated by the municipality shortly after project approval if it has not already been appropriated.** Costs incurred prior to grant approval and contract execution are ineligible, **including design costs.** Force account labor is also ineligible. Mention any *previous, pending or anticipated* financial assistance on this project. Refer to Urban Self-Help regulations (Section 5.07) for eligible cost details.

Total Eligible Project Cost: _____

Urban Self-Help Request: _____
(52-70% based on Equalized Valuation Per Capita, confirm with DCS, maximum of \$500,000)

Municipal Share: _____
(Community Development Block Grant, Community Preservation Act, etc., please specify in narrative)

Other: (i.e. private donation to community, fund raising, etc.) _____

Grant Program Preference

Municipal applicants must state if the application is for funding through the Urban Self-Help Program and/or the Land and Water Conservation Fund program; please check off the appropriate box below. Municipal projects may be considered for funding under both the federal LWCF program and the Urban Self-Help Program (indicate this by checking off both boxes below as "yes"), but can only be approved for funding through one of the programs. EOEEA reserves the right to fund a municipal project from the program source it deems most appropriate and most beneficial to the overall needs of the Secretariat should the applicant apply to both state and federal grant programs.

Would you like to use this application to apply for an Urban Self-Help Program Grant?

☐ Yes

☐ No

Municipal applicants applying for a federal LWCF grant: Please note that the federal grant program has a 50% reimbursement rate. This is a separate source of funding and your community, if successful, can only receive an Urban Self-Help grant or a LWCF grant, not both. Would you like to use this application to apply for a LWCF grant?

Note: To be eligible for LWCF assistance applicants must complete and submit Attachment B.

☐ Yes

☐ No

Attach a one page description of the proposed project budget including:

- The source of all local funding including donations and Community Preservation Act (CPA) funds.
- Description of the details of any donation, if applicable (be sure these funds are gifted to the community and earmarked for the project).
- Description of any other sources of funding including federal, state, municipal or nonprofit organizations. List these partners and describe their contribution. Not all sources of state and federal funds are compatible with every DCS grant program.

6. Project Type: Please indicate type of project, refer to the program's regulations for definitions (Sec 5:03), and to the list of required attachments found at the end of this application form to substantiate any "yes" answers. Indicate here whether:

(a) ☐ Your municipality is an urban population center

(b) ☐ Your project qualifies as a regional or statewide project (submit a Usage Report)

(c) ☐ Your project qualifies as a "small town" project

7. Commonwealth Capital Application

Communities may submit their FY06 Commonwealth Capital Score or may submit for a score using the FY 06 criteria if they have not done so before (for more information see http://www.mass.gov/?pageID=ocdterminal&L=2&L0=Home&L1=Commonwealth+Capital&sid=Eocd&b=terminalcontent&f=ocdfontpage_commonwealthcapital&csid=Eocd).

Have you applied for a Commonwealth Capital Score? ☐ Yes ☐ No

FY06 Commonwealth Capital Score: _____

8. Describe outstanding leases, restrictions or other rights or interests held by others in the project site and enclosed copy of the same (for file records only).

9. Is the property permanently dedicated for park, playground, or recreation purposes? If not, please submit draft dedication language for DCS review as all USH projects must be dedicated for park, playground, or recreation purposes.

☐ Yes

☐ No

Total acres of dedicated park land _____

10. Are fees currently charged or proposed for this facility? If yes, please attach a copy of the fee system. Charging fees is allowed subject to DCS approval. If applicant is awarded a grant, the site cannot be restricted to municipal residents only. If fees are charged based on residency, fees for nonresidents are subject to Section 5.08(3) of the Urban Self-Help regulations (for file records only).

☐ Yes (copy attached)

☐ No

11. Municipal Open Space and Recreation Plan and *Massachusetts Outdoors*

Describe how your project meets the recommendations in your current Open Space and Recreation Plan and cite the page number references to your plan. If we already have a copy of your plan, there is no need to submit another copy. Comment on how the project meets the regional demand for recreation based on *Massachusetts Outdoors*: "Inferred Need for New Recreational Areas" under Chapter 5: The Regional Perspective. This document can be found online at <http://www.mass.gov/envir/dcs/global/publications.htm>.

12. Check the following if applicable to project (for file records only):

- | | | |
|------------------------------|-----------------------------|-----------------------------------------------------------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Prime agricultural lands (see Ex. Order #193) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Cultural, historic, archeological site: Contact MA Historical Commission (617) 727-8470 |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Endangered species habitat: Contact MA Natural Heritage Program (508) 792-7270 |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Scenic River designation |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Wetland designation |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 100 year floodplain |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Environmental intrusion, i.e. overhead power lines (must be buried), safety hazards |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Brownfield – 21E evaluation |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Environmental Justice community/neighborhood |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Acquisition involving relocation of residents, tenants, or businesses |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Negotiated sale |

Do you have a Purchase and Sales Agreement or Agreed Price?

☐ Yes ☐ No

If yes, Amount:

\$ _____

Is Clear Title available?

☐ Yes ☐ No

If no, is an eminent domain taking anticipated?

☐ Yes ☐ No

If yes, proposed pro tanto award amount:

\$ _____

Note that if clear title is not available, the town may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Appraisal Report #1

Valuation: \$ _____

Appraiser: _____

Valuation Date: _____

Review Appraisal Report #2 – if land valued at over \$500,000

Valuation: \$ _____

Appraiser: _____

Valuation Date: _____

Please note: if your project is selected for federal funding, the appraisal must be upgraded to the federal appraisal standards ("Yellow Book") found at www.usdoj.gov/enrd/land-ack/yb2001.pdf.

13. Check if the following permits are required (for file records only):

- | | | |
|------------------------------|-----------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | U.S. Army Corps of Engineers (404 or Rivers and Waterways) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | MA DEP Division of Wetlands & Waterways (617) 292-5518 |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | U.S. Coast Guard |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | U.S. Dept. of Agriculture (Zoos) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | C. 131 s. 40 Wetlands (municipal conservation commission) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | MEPA Review (301 CMR 11.00: MEPA Regulations) (617) 626-1020 |

IMPORTANT NOTICE

If any of the above permits are required, the permit or application for the permit must be submitted. Should the project be selected for funding, the permit will be required as part of the final application.

14. Attach certification of:

- a. Applicant community's legal authority to apply for the grant and to finance and construct the proposed facilities (see Sample Municipal Vote), and the **Chief Executive Officers legal authorization to execute contracts**. This is a resolution, motion, or similar action that has been duly adopted or passed as an official act of the community's governing body which authorizes the filing of the applications, including all understandings and assurances contained therein; and
- b. Authorization from chief municipal officer identifying individual named on the first page of this application who acts as official of municipality in connection with the application and who will provide such additional information as may be required (See Urban Self-Help Regulations 5.04:(6)).

Date

Signature of Chief Municipal Officer

Name and Title (Typed)

Duration of Term

Mailing Address: _____

Telephone: () _____

REQUIRED ATTACHMENTS (applications that are missing these items will not be accepted)

1. **Municipal Open Space and Recreation Plan**, if not already approved and on file at DCS. Plans are approved by DCS for up to five years of eligibility in DCS grant programs. Community is not eligible to apply without an approved plan, or submission of a draft plan. (If we have it on file, don't send another copy.)
2. **Acquisition Projects – Appraisal report(s)** as required by DCS. Note that projects selected for federal funding must upgrade the appraisal(s) to meet federal appraisal standards ("Yellow Book") found at www.usdoj.gov/enrd/land-ack/yb2001.pdf.
3. **Development & Renovation Projects – Site Development Plans and Cost Estimates.** Services of a professional design firm are recommended for renovation and development projects. Costs incurred prior to the signing of a state standard contract are NOT eligible for reimbursement.

REQUIRED ATTACHMENTS FOR LWCF APPLICANTS

(applicants must submit the attachments below in addition to the ones listed above)

1. **Plot plan or survey map** showing the project boundary, see Attachment A. The project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. A registered survey plan with deed references or assessor's map with block and lot number are acceptable.
2. **Massachusetts Historical Commission comments:** Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. Send this certified mail, return receipt requested, so that you know when it was received. MHC will review and comment to DCS (and copy the applicant) within 30 days of receipt. There is no need to telephone or email the MHC. See these webpages for any questions: <http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.
3. **LWCF Proposal Description and Environmental Screening Form** – See Attachment B.

RECOMMENDED ATTACHMENTS

(provides details to information requested and assists in project evaluation)

1. A **Cover Letter** on respondent letterhead that, at a minimum, identifies or discusses: the specific parcel(s) of land to be acquired or park(s) to be developed/renovated; a clear statement of the parcel(s)'s or park(s)'s importance to the community's recreation needs; any partnerships, financial or otherwise, formed to facilitate the project and/or long-term maintenance of the parcel(s); and a detailed project schedule.
2. **Project Description and Budget Details**, including a breakdown of how much is needed for design costs in FY08 and construction costs in FY09.
3. **Photographs** of site including any existing facilities and buildings.
4. **Boundary Plan of Site** (Survey or Plot Plan with adequate metes and boundary descriptions, see Attachment A.). The boundary plan submitted with the project application becomes the permanent protected boundary for the site, and must be legally sufficient to identify the land to be protected. A registered survey plan with deed references or assessor's map with block and lot number are acceptable.
5. **USGS Locus Map** showing project site, any adjacent or nearby public or quasi-public land, nearby public transportation route(s), and EJ populations in project site area.
6. Sufficient materials that will allow **MassGIS** to create an accurate digital representation of the proposed site. These materials include either 1.) a USGS topological map or copy (including the name & date of the quad) with the site accurately drawn on it, with a copy of the site plan and/or a survey plan if available or 2.) a printout of the digital representation of the site on a USGS topological map background and a note indicating that the digital representation of the site has been emailed to dominique.pahlavan@state.ma.us in appropriate format (Massachusetts State Plane Meters NAD1983 Datum) with a subject line that includes the words "Urban Self-Help Program FY08 Grant Round".
7. **Evidence of public hearing on proposed project** (copy of actual newspaper ad or actual posted announcement). Concentrate on local neighborhood participation by posting notices with tenants associations, in local grocery stores, or with Community Development Corporations. Pay special attention to Environmental Justice neighborhoods in the community. Please look at EOEEA's Environmental Justice Policy online at www.mass.gov/envir/ej/default.htm to ensure proper outreach procedures in EJ neighborhoods.
8. **Usage Report** if your project is Regional or Statewide.
9. Certified copies of the following **municipal votes** (or draft warrant article or city council order, as necessary). Refer to the Sample Municipal Vote handout, which is included in the application package, for guidance.
 - Copy of municipal vote accepting the Conservation Commission (M.G.L. c.40 s.8c) and Park Commission (M.G.L. c.45 s.2) and current appointments to said Commissions.
 - Vote authorizing application; raising, borrowing or appropriating the total project cost (application item #14); and dedicating land to park, playground, or recreation purposes (application item #9).
10. Copy of property **deed** confirming municipal ownership and dedication to park, playground, or recreation purposes.
11. **Commonwealth Capital Score** – your community's FY06 Commonwealth Capital Score can be found online at <http://www.mass.gov/ocd/comcap.htm>. For questions on Commonwealth Capital email commcap@massmail.state.ma.us.
12. **Other State Agency Review** – If it is not possible to include their response in the application package to DCS, attach a copy of your cover letter requesting their input.
 - Massachusetts Natural Heritage and Endangered Species Program (MNHESP) at

www.state.ma.us/dfwele/dfw/nhesp/heritage).

- Massachusetts Historical Commission: Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhcpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. Send this certified mail, return receipt requested, so that you know when it was received. MHC will review and comment to DCS (and copy the applicant) within 30 days of receipt. There is no need to telephone or email the MHC. See these webpages for any questions: <http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and <http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.

13. LWCF Proposal Description and Environmental Screening Form – See Attachment B.

SUPPLEMENTARY DOCUMENTS ATTACHED IF APPLICABLE TO THE PROJECT

1. Copies of current leases, restrictions, or other rights or interests held by others in the property.
2. Fee Schedule.
3. Any necessary permits or applications for permits.

If selected, the Respondent will be required to execute the following forms in order to complete a contract:

- Urban Self-Help Project Agreement
- Commonwealth Standard Contract
- Commonwealth Standard Terms & Conditions
- Contractor Authorized Signatory Listing

Applicants are encouraged to review these forms prior to submission of an application. With the exception of the Urban Self-Help Project Agreement, all other forms are available at: www.mass.gov/osd.

Projects selected for federal Land and Water Conservation Funds will be required to submit a Boundary Map and LWCF Proposal Description and Environmental Screening Form for the subsequent application that is submitted by EOEEA to the National Park Service. If selected for LWCF funding, the Respondent will also be required to execute the following forms in order to complete a contract:

- LWCF Project Agreement and SF424, 424C and 424D.
- Commonwealth Standard Contract
- Commonwealth Standard Terms & Conditions
- Contractor Authorized Signatory Listing

OUTDOOR RECREATION PROJECT SELECTION SYSTEM

Massachusetts Urban Self-Help, Strategic Urban Recreation Fund, and Federal Land & Water Conservation Fund Programs

In order to distribute limited grant funds among an overwhelming number of applicants, a project selection system has been developed for outdoor recreation projects. The selection system includes an interagency review of each project and the draft ratings and funding recommendations. For Fiscal Year 2008 projects, the Sustainable Development Criteria issued by the Office of Commonwealth Development will be utilized. Communities may use scores from Fiscal Year 2006 or submit a new Commonwealth Capital application. The rating system considers demographic, social, environmental, and project quality factors in order to identify those projects that best protect natural resources in communities that have the greatest need for financial assistance and that have made efforts to implement their open space plans in coordination with local planning for sustainable growth.

Interagency Review

The Executive Office of Energy and Environmental Affairs' Interagency Lands Committee (ILC) reviews conservation land acquisition project applications to ensure project coordination with state agency programs, executive orders and environmentally sound land use policies. The Committee consists of representatives from the Departments of Conservation and Recreation, Fish and Game, and Agricultural Resources, and EOEEA personnel. The ILC considers each project and its impact on the statewide conservation and recreation vision articulated in *An Open Space Plan for Massachusetts: A Partnership*, and *Massachusetts Outdoors 2000 – The Statewide Comprehensive Outdoor Recreation Plan* (SCORP). DCS coordinates the interagency review of all applications and submits all comments and recommendations to the Secretary of Environmental Affairs for final funding decisions.

In reviewing applications and developing their recommendations to the Director of Conservation Services, the ILC considers:

1. Demographics

Three categories are evaluated by DCS to calculate a community's demographic score. Communities with higher Population Density, lower Median Income, and higher Percentage of Households Below Poverty Level receive higher demographic scores. (Scores are calculated by DCS; therefore, there is no need to submit any statistics or narrative on your community's behalf.)

2. Community Profile Score

Environmental Justice Community – calculated by EOEEA's EJ Director.

State Designated Economic Target Area – obtained from Department of Economic Development

Smart Growth Score – EOEEA encourages land use decisions that protect environmental quality and preserve natural resources. Unplanned growth not only threatens the environment, it also can adversely affect the timely provision of needed infrastructure and has a tremendous fiscal impact on communities. This impact, in turn, puts future economic opportunities at risk. Please submit your community's FY06 Commonwealth Capital score, available online at www.mass.gov/ocd/comcap.html, to obtain your score. Please direct any questions that you have to (617) 626-4949.

3. Project Quality

- Consistency with EOEEA policies, including a cooperative grant effort, the development of a long term maintenance plan, protection of water-based recreation, regional or statewide projects, brownfields redevelopment, innovative water reuse/recharge, and park development associated with ecological restoration projects, such as dam removal
- Addition of new parkland by acquisition or rededication
- Green infrastructure
- Consistency with *Massachusetts Outdoors 2006 – The Statewide Comprehensive Outdoor Recreation Plan*

4. Partnerships

EOEEA, like any other open space protection agency or organization, must have other financial partners. Projects that involve financial contribution from more than one municipality, or from a nonprofit organization, will be given higher consideration. Projects that obtain technical assistance from other organizations will also benefit in the rating system.

SELECTION NOTES:

Preservation of Agricultural Land

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Project that would convert any prime agricultural lands should consult with the Department Agricultural Resources at (617) 626-1700 prior to submitting an application.

Land and Water Conservation Fund Policy and Criteria for Selection of Projects

Note that federal funds are also made available to the Massachusetts Department of Conservation and Recreation, and the Massachusetts Department of Fish and Game. These state agencies therefore also compete with municipalities for federal funding. All state agency projects will be rated and ranked using the Land and Water Conservation Fund Rating Sheet (attached). Municipal projects not ranking high enough for available state funding for Self-Help and Urban Self-Help will be evaluated using the Land and Water Conservation Fund Rating System, along with the state projects. The highest ranking projects will be funded with available federal funds.

RATING SYSTEM for Outdoor Recreation Projects

CATEGORY	SUB-CATEGORY	Description	Partial Points	Max
DEMOGRAPHICS	Population Density	Figures are obtained from MISER and put into rank order by DCS	1-4	5
	Median Income	Figures are obtained from MISER and put into rank order by DCS	1-4	5
	Percentage of Households below Poverty Level	Figures are obtained from MISER and put into rank order by DCS	1-4	5
COMMUNITY PROFILE SCORE	Environmental Justice Community	Calculated by EOEEA's Environmental Justice Director	1-4	5
	Sustainable Development Criteria – Smart Growth Score	FY06 Commonwealth Capital application score should be used (see http://www.mass.gov/ocd/comcap.html for details). If your community has not yet applied for a Comm Cap score, complete an application on or before July 31, 2007 to be eligible for points under this category.	1-29	30
	Affordable Housing	Component of an affordable housing project		2
PROJECT QUALITY	Consistency with current EOEEA policies	Project located in underserved and underrepresented neighborhood and will act to stabilize community		4
		Conversion of brownfields to "greenfields" and formal park dedication		4
		Innovative water recharge and reuse component i.e. on-site stormwater control system (including low impact development – more info at www.mass.gov/envir/lid/default.htm) or reuse of treated wastewater as irrigation water for playing fields		4
		Project is connected with or will enhance understanding of an environmental restoration project such as a dam removal		4
		Project is located in "urban center" close to public transportation and other services		4
	Addition of newly dedicated parkland by acquisition or by rededication	Acquisition or formal dedication of parcel with unique natural (rare species, ACEC, geologic, or landscape feature), cultural resources (historical or archaeological or site culturally important to community), or wetlands	1-3	4
		Project that expands municipality's park and outdoor recreational facilities through acquisition or development of a new park or rededication		
	Green Infrastructure	Acquisition, development, or renovation project that protects or enhances water-based recreation	2	4
		Project that is part of a linked system (geographical) of conservation, recreation, or protected land areas or facilities such as greenways, river corridors, or enhancement of project previously assisted with DCS funds, or contains resources identified in Five-Year Watershed Action Plans (www.mass.gov/envir/water/publications.htm)	1-3	4
	Regional Impact	Any project qualifying as regional or statewide (see definitions at www.mass.gov/envir/dcs) – must fill out Usage Report	2	3
	Public Hearing	Municipality has conducted a public hearing on project, with outreach in Environmental Justice neighborhoods		2
	Cooperative Project	Joint cooperative project between applicant and other municipality or non-profit organization involving funding and/or commitment for future park maintenance	2	3
	Outdoor Classroom	Site offers interpretive services and/or environmental education	1	2
	Consistency with SCORP and municipality's OSRP	Points awarded based on how high activity or facility rates under Chapter 5: The Regional Perspective	1-3	4
		Points awarded based on how highly rated project was in community's Open Space and Recreation Plan	1	2
TOTAL				100

Land and Water Conservation Fund Policy and Criteria for Selection of Projects

Overview: The Land and Water Conservation Fund (LWCF) is authorized by federal legislation to fund conservation land acquisition and park improvement projects for states and municipalities. Funding comes from offshore oil leases, and is appropriated annually. EOEEA is the approved liaison agency that works with the National Park Service (NPS) to recommend projects for funding. Since 1965, Massachusetts has received \$95 million. LWCF is a reimbursement program and includes important federal approvals should land involved in a LWCF project ever be threatened with a change from conservation or recreational uses.

1. The Secretary of EOEEA, as the State Liaison Officer for the Land and Water Conservation Fund duly appointed by the Governor in accordance with the LWCF program, will authorize the submittal of applications to NPS for available LWCF funds in order to select the best projects and keep unspent balances in this account low.
2. The Director of Conservation Services will rate eligible state and municipal conservation and recreation projects using the rating system below and recommend projects for the Secretary to submit to NPS. State agency applications and any municipal application seeking LWCF funds will be rated and ranked using the Land and Water Conservation Fund Rating Sheet (below). EOEEA reserves the right to fund a municipal project from the program source it deems most appropriate and most beneficial to the overall needs of the Secretariat.

LWCF Rating System

<i>Recreation Project Criteria</i>	<i>Recreation Projects Points</i>	<i>Conservation Project Criteria</i>	<i>Conservation Projects Points</i>
Need for this type of park within municipality and neighborhood	35	Statewide resource quality and use for passive recreation	35
Impact of LWCF funding on viability of this park	15	Impact of LWCF funding on viability of this parcel for conservation land	15
Importance in meeting goals of the Statewide Comprehensive Outdoor Recreation Plan (SCORP)	15	Importance in meeting goals of the Statewide Comprehensive Outdoor Recreation Plan (SCORP)	15
Ability of applicant to maintain the park into the future.	10	Ability of the applicant to maintain the conservation land into the future.	10
Ability of the project to provide health and education benefits in the future	5	Ability of the project to provide health and education benefits in the future	5
Likelihood of competing future uses for the land and importance of LWCF status in protecting land from future conversions from park use	20	Likelihood of competing future uses for the land and importance of LWCF status in protecting land from future conversions from conservation use.	20
TOTAL	100	TOTAL	100

SAMPLE MUNICIPAL VOTE

Each community should draft its warrant article or city council order with the guidance of municipal counsel. The form will vary with the type of project, source of funding, etc. All should include the following elements:

- I. Authorization to expend an amount equal to the full acquisition and/or development cost of the project. All DCS grant programs are *reimbursement* programs, not match programs; therefore, the total project cost must be raised or appropriated through current tax levy or borrowed; project bills paid by the municipality and then a reimbursement request is made to DCS for the grant amount.
- II. Indication of the source of funding (Conservation Fund, Community Preservation Act Fund, general fund, borrowing, etc.). M.G.L. Chapter 44, sections 7, 8C, and 12(a) on Municipal Indebtedness, allows cities and towns to borrow in anticipation of reimbursement. It is strongly recommended that the warrant article or city council order is prepared with the advice of city/town counsel, treasurer, and accountant to ensure that the appropriate section is noted in the warrant article. These sections permit the municipality to borrow in anticipation of a grant and require that a grant agreement be executed before the treasurer actually obtains the borrowed amount. This assures DCS that the municipality has 100% of the total project cost, and assures the municipality that the project need not be completed if the proposal does not receive grant assistance. For further advice, please contact the Department of Revenue, Division of Local Services at (617) 626-2300.
- III. Acquisition projects: indicate that land is being acquired either for conservation and passive outdoor recreation purposes (Chapter 40, Section 8c) or for active recreation purposes (Chapter 45, Section 3 or 14, for example) and will be in the care and control of the appropriate commission or department.
- IV. Authorization for the conservation commission or recreation department to seek reimbursement under the specific DCS grant and enter any necessary contracts thereto.

<i>Self-Help Act:</i>	<i>Chapter 132A, Section 11</i>
<i>Urban Self-Help:</i>	<i>Chapter 933 Acts of 1977, as amended</i>
<i>Federal Land & Water Conservation Fund:</i>	<i>P.L. 88-568, 78 Stat 897</i>
- V. If a taking is involved in an acquisition project, the conservation commission or recreation commission must, in writing, request the selectmen or city council to take the property via eminent domain.

The following is a sample vote authorizing the acquisition of Self-Help land (please refer to IV above for the appropriate grant program or programs). This is intended only as a point of reference. **Municipal Counsel should always be consulted when drafting Town Meeting warrant articles or City Council orders.** The draft article or order must be submitted to DCS for review prior to the Town Meeting or City Council vote

Sample for Self-Help Conservation Acquisition Project – Town Meeting Warrant Article

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of MUNICIPALITY, and the Conservation Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Self-Help Act (Chapter 132A, Section 11) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Sample for Urban Self-Help Park Development Project – City Council Resolution

(For purposes of this example, the park project will be a City Common.)

A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS FOR THE URBAN SELF-HELP PROGRAM FOR IMPROVEMENTS TO THE COMMON

- Whereas: The City Common is by and far a community wide asset and the preservation and improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan; and
- Whereas: The City Common's ultimate restoration, guided in principal by the Master Plan, will greatly enhance this facility with improved infrastructure, path systems, site lighting universal access, etc.; and
- Whereas: The main focus of the Plan is to increase the available space on the Common to adequately host major events and activities. This overall cost and fiscal budget constraints prevented the City from proceeding forward with implementation as one project; and
- Whereas: The project was instead viewed as a series of phases, to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and
- Whereas: The Executive Office of Energy and Environmental Affairs (EOEEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Urban Self-Help Program, Chapter 933 Acts of 1977, as amended; and
- Whereas: Phase I of the Common Restoration Project will cost a total of \$1,000,000 (One Million Dollars) and the City has allocated \$1,000,000 in Community Development Block Grant funds for Phase I of the Common Restoration Project.

NOW, THEREFORE, BE IT

1. That the City Manager be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the City Manager be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage.

Sample for Urban Self-Help Park Acquisition Project – Town Meeting Warrant Article

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for public parks and playgrounds purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 45, Section 14, and as it may hereafter be amended and other Massachusetts statutes relating to public parks and playgrounds, to be managed and controlled by the Park Commission of MUNICIPALITY, and the Park Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Urban Self-Help Act (Chapter 933 Acts of 1977, as amended) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Special Note for Acquisition Projects Funded through the Community Preservation Act

The Community Preservation Act (CPA) states that land acquired with these funds is to be bound by a permanent restriction. DCS acquisition projects meet this requirement because each project must:

1. Obtain an affirmative Town Meeting or City Council Vote stating the purpose for the acquisition (either conservation or recreation);
2. Include similar language in the deed permanently restricting the use of property for the specific purpose as indicated in the Town Meeting or City Council vote;
3. Record a copy of the Project Agreement as an adjunct to the deed; and
4. Include a copy of the Project Agreement as an appendix to the land management plan.

These steps effectively protect the land under Article 97 of the Amendments to the State Constitution and permanently restrict the property. Additionally, since DCS grant funds were used, any conversion to a non-conservation or non-recreation use requires the community to replace the converted property with land of equal monetary value, and conservation or recreational use.

However, some communities may still wish to further protect the property by conveying a conservation restriction to a conservation or recreation nonprofit organization (a “qualified holder”). Conveying a conservation restriction over “parkland” normally would trigger the formal “Article 97” disposition process requiring a 2/3 vote of the legislature. However, for guidance, EOEA refers municipalities to the opinion of the Massachusetts Land Trust Coalition Attorney Referral Panel that states: “If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a “disposition” of an interest in the property within the meaning of Article 97.”¹ All municipalities should seek final advice on this issue from its town counsel or its city solicitor.

Points to Remember if a CR is conveyed:

1. At the same time that it votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.
2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under ch. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The “proceeds” clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

Sample Vote Language for Community Preservation Act Projects

To see if the Town [or City] will vote to raise, borrow and/or appropriate \$Total Project Cost for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately +/-acres owned by OWNER as described on Assessors Map , Parcel , to be managed and controlled by the Conservation Commission of the Town [or City] of XXX in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager [or Board of Selectmen or City Council or Mayor] be authorized to file on behalf of the Town [or City] of XXX any and all applications deemed necessary under the Self-Help Act (M.G.L. Chapter 132A, Section 11) [or LWCF or USH] or any other applications for funds in any way connected with the scope of this acquisition, and the Town Manager and the Board of Selectmen [or Mayor and the City Council] and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town [or City] of XXX to affect said purchase. Said conservation restriction may be granted to the [Name of Grantee] or any other organization qualified and willing to hold such a restriction.

1 Attorney Greg Bialecki and the Attorney Referral Panel of the Massachusetts Land Trust Coalition – Visit the Massachusetts Land Trust Coalition website at www.massland.org, or <http://www.massland.org/pages/resources/legaladvisory3.html> for this legal advisory.

APPRAISAL REPORT REQUIREMENTS

If your project involves an acquisition, appraisal reports are absolutely critical to the success of your project. The subject property must be appraised in accordance with the Division's requirements by a qualified, independent and disinterested appraiser. Reports done for the owner, or paid for by the owner, cannot be used. The report(s) must be submitted along with the preliminary application by the grant round application deadline.

1. **Type of appraisal report required:** The following conditions determine the number and type of appraisals required.
 - a. For acquisitions with appraised values of \$500,000 or more, two appraisals by real estate appraisers certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, are required, of which one may be a review appraisal;
 - b. For acquisitions with appraised values of less than \$500,000 but more than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, is required; and
 - c. For acquisitions of less than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, or one contracted market analysis, or one contracted opinion of value is required, subject to the discretion of the Director of the Division of Conservation Services.

A full narrative appraisal is a comprehensive analysis, substantiated by documented market data, of the value of a property. Full appraisals must be bound, in book-fashion, in the left margin, in a durable cover with an identification of the property on the cover page. The paper must be a good grade bond of size 8 1/2"x 11". All pages must be numbered consecutively, including all exhibits, and each important heading must be shown in the Table of Contents. In short, this is not the brief estimate typically done by a lending institution when a home is refinanced.

2. **The Appraiser's Scope of Practice:** The appraiser must be licensed and/or certified by the Massachusetts Board of Registration of Real Estate Appraisers, and have the appropriate license or certification for the type of land that is appraised. Often the project will require a state certified general real estate appraiser. The following is an excerpt from the state regulations for the Board of Registration of Real Estate Appraisers.

264 CMR 6.01: Scopes of Practice

(1) State-Licensed Real Estate Appraisers. State-licensed real estate appraisers may appraise:

- a. non-complex one-to-four unit residential properties having a transaction value of less than one million dollars (\$1,000,000) and complex one-to-four unit residential properties having a transaction value of less than two-hundred fifty thousand dollars (\$250,000);
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential properties, and where the highest and best use is for one-to-four unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-licensed real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(2) State-Certified Residential Real Estate Appraisers. State-certified residential real estate appraisers may appraise:

- a. residential properties with one-to-four units and complex one-to-four unit residential property both without regard to transaction value;
- b. vacant or unimproved land that is to be utilized for one-to-four unit residential use and where the highest and best use is for one-to-four family unit residential purposes; and,
- c. properties as specified by the FFIRAS.

State-certified residential real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(3) State-Certified General Real Estate Appraisers. State-certified general real estate appraisers may appraise all types of non-complex and complex real property both residential and non residential.

Regulatory Authority: 264 CMR 6.00: M.G.L. c. 13, s. 92; M.G.L. c. 112, §. 173-195.

3. **Federally funded LWCF acquisition projects:** Projects selected for federal assistance under the Land and Water Conservation Fund must also comply with the Uniform Appraisal Standards for Federal Land Acquisitions. These standards are available at www.usdoj.gov/enrd/land-ack/yb2001.pdf. Critical differences for federal appraisal standards include: a.) determination of the "larger parcel", applicable when only part of the property is acquired; b.) Highest and Best Use definition; c.) Market Value

definition; and d.) limiting the use of the development approach for valuation. *Where the federal standards differ from the following requirements, the federal standards will prevail.*

4. **Using federal grant assistance for land acquisition** – Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646). The Municipality (the Buyer), must offer the owner the opportunity to accompany the appraiser, must offer the owner a written statement of just compensation based on the approved appraised value, and must pay the closing costs.
5. **Common comparable sales problems:** Reports usually contain comparable sales and the examples offered should be just that: comparable. The locations should be similar, preferably the same town. If they are not, the narrative must explain why that particular sale is still comparable. The highest and best use and market situations of the comparable sale should be the same as the subject property. These sales must also represent arms length transactions – generally municipal transactions are not arms length.
6. **Common valuation problems:** The highest and best use must reflect a market situation, and typically "open space" or "conservation" is not a marketable situation. If the subject property cannot support development, perhaps it would be attractive to abutters who wish to add to their own holding (assembly), or the property may have some timber value, or if the property is part of a larger parcel, a before and after value is warranted. Any restrictions placed in the deed by the grantor (seller) can possibly lower the value of the property.
7. **Complicated circumstances:** Appraisals must be analytical narrative reports following current professional appraisal standards. All components of the report such as introductory and supporting data, valuation analysis, limiting conditions, and certifications must meet these standards. If necessary, the Division of Conservation Services will furnish supplementary specifications which delineate additional required data in the appraisal of highly specialized properties or properties to be acquired under unusual circumstances.
8. **Eminent domain taking:** The municipality must notify the appraiser if an eminent domain taking is contemplated or a possibility. All grant program participants must provide for fair and equitable treatment of persons and businesses to be displaced as a result of the acquisition. Participants must abide by the requirements of M.G.L. c. 79A or c. 80A (both pertain to eminent domain takings), as amended.
9. **Review appraisal:** When, in the opinion of the Director, the value of the property remains in doubt, further appraisals may be required to reach a value conclusion. The resolution of value may be accomplished through the performance of entirely new appraisals or through the engagement of an appraiser as qualified above for the purpose of reviewing existing appraisal reports and certifying a final value conclusion.
10. **Reports must be submitted by the grant round deadline.** However, if DCS requires report corrections, revisions, or review appraisals; they may be submitted after the deadline.
11. **Reports must be written for the applicant municipality.** Appraisals must include the municipality as a client, and cannot be paid for, or obtained by, the owner.
12. **Special Note for appraisals submitted as part of a conversion proposal.** These Reports must value the converted property under a hypothetical situation: *as if the property were developable*, unencumbered by any conservation or recreation restrictions.

Sources And References

These appraisal specifications are based on material from the following sources:

1. EOEEA Land Acquisition Policy – Appraisals dated September 1, 1995.
2. Uniform Standards of Professional Appraisal Practice

APPRAISAL REPORT REQUIREMENTS

I. INTRODUCTION

- A. Title Page: Each Appraisal Report must include: (a) the name of the Municipality (client) for which the Report was prepared, (b) the name and street address of the property, (c) land area of the property (d) the name and street address of the owner(s), (e) the name of the individual making the report, and (f) the effective date of the appraisal.
- B. Table of Contents – List all essential items in the report.
- C. Certificate of Value – See Exhibit 1.
- D. Summary of Important Facts and Conclusions
- E. Photographs
- F. Statement of Limiting Conditions and Assumptions: Each Appraisal report should set forth the limiting conditions and assumptions made by the Appraiser in preparing the report. If there is a discrepancy in description, acreage, frontage, or other factual data, the Report should note which description, amount or measurement is being used in calculating the final value.

II. FACTUAL DATA

- A. Purpose of Appraisal: Include a statement of the reasons for the appraisal, a definition of the appraisal problem and a description of the property rights being appraised.
- B. Legal Description and Title
- C. Area, City and Neighborhood Data: Include the area, city and neighborhood data, including area or location maps (such as the United State Geologic Survey topographic map) and indicate the location of the subject property. Include a general description of the city or town, the section of the community, and the actual area surrounding the property. This section should also include a discussion of the town's or city's attitude toward development, and upon what information any conclusions are based; whether the town or city has a Master Plan; the population trends in the community, and reasons for such trends. This data should be kept to a minimum and related to the valuation problem at hand.
 1. Favorable and Unfavorable Factors: List and discuss favorable and unfavorable factors affecting the property, such as transportation, major industries, shopping centers and recreation areas. Any hazards or nuisances which affect the subject property, such as obnoxious facilities, smoke, smell, noise and traffic, should be thoroughly discussed. Indicate the factor's location and relationship to the property as well as its effect upon market value.
 2. Real Estate Market Conditions: Discussion of current real estate market conditions affecting the area, including supply and demand factors. Mention the specific type of property being appraised, along with future indicated trends and the extent to which those trends affect the value of the property. Also include data on the number of lot sales, and, if available, bona fide building permits issued in the past three to five years, and those pending, for the type of development or construction starts within that three to five year period.

III. PROPERTY DATA: The data collected by the Appraiser should be as comprehensive as possible, and be acknowledged and related to the Appraiser's determination of Highest and Best Use and final value conclusions.

- A. Site - describe the property's location; current use(s); access (public or private road, paved or unpaved); adequacy of access for subdivision purposes; area; shape; extent of road frontage; buildings; presence and location or absence of utilities; topography; soils and sub-soil conditions; porosity of soils/adequacy of drainage; availability of town sewer (if none, whether soil will percolate); presence or availability of potable water, and whether current or proposed uses may cause contamination of sources of drinking water or wells on or near the property; merchantable forests; extent of water frontage; scenic views; wetlands or floodplain, aquifer recharge districts, or any other environmental constraints. Any history of the site, or physical characteristics, which might indicate its use for disposal or storage of known hazardous or potentially hazardous materials must be indicated. In the case of a partial acquisition, the report should similarly describe the remainder property, including any limitations or enhancement caused by the acquisition of the subject property. Describe any Massachusetts General Laws Chapter 61 (forest land), Chapter 61A (agricultural and horticultural land) and 61B (recreational land) encumbrances which have been placed on the property. Include the existence and extent of any easements, rights of way and/or other encumbrances (including conservation, agricultural, or other preservation restrictions or easements) which appear of record and/or on the ground. Investigate the likelihood of existence or non-existence of loam, peat moss, water, timber, gravel or mineral deposits on the subject property. If it is determined that such materials exist, determine whether there is a demand or market for the material(s). If so, indicate whether a permit to extract or remove these materials has been issued, or the likelihood of issuance or denial of a permit if applied for. If a permit is not necessary, or has been issued, or issuance would be likely, determine the enhancement value these materials bring to the subject property, if any, by use of the comparable sales method. The presence, absence or value of such materials need not be investigated when the appraisal assignment is for a partial interest in the property which does not include rights to these materials.
- B. Site Conditions and Improvements - Include a description of site conditions and/or improvements by narrative or list form. Such conditions and improvements may include buildings or other structures, foundations, ruins, archeological sites, cemeteries, quarries, dams, and water or flood control devices. If measurable, include dimensions, and cubic or square foot measurements of such conditions and improvements. Where applicable to determination of highest and best use, determine the rentable areas on site (including a statement of the method of measurement used in determining rentable areas), and the fair market rental value of such areas. Also note evidence or likelihood of existence of hazardous materials or waste on the site. Where so noted, the Appraiser must immediately notify the Municipality.

- C. Equipment - Where the highest and best use of the subject property is for a special purpose (for example, as a downhill ski facility, golf course, or camp), include a description of equipment appurtenant to the appraised premises by narrative or list and include all items of equipment. The current physical condition and relative use and/or obsolescence should be stated for each item or group of equipment described, and a final value estimate of each item or group determined. When repair or replacement of the equipment is necessary to bring the equipment to a usable condition, an estimate of the costs for doing so should be provided. Any related personal equipment, such as tenant trade fixtures, which are not attached or considered part of the realty must be separately inventoried by the Municipality. Where applicable, these detachable or individually owned items must be separately valued by the Appraiser.
- D. History - State the history of the use or uses of the property. Include any evidence of prior use of the property for storage, use or disposal of hazardous wastes or materials. Where applicable, describe the purpose for which improvements were designed, dates of original construction and major renovations and/or additions. Show all transfers of the appraised property for the past ten (10) years, including sales; the sale price, if listed; leases; and, if known, offers to buy or sell. If there have been no transfers within the past ten (10) years, the Report should so state, and include a report of the last sale.
- E. Assessed Value and Annual Tax Load - Include the assessor's map and parcel number for the property, a copy of the assessor's map, and the current assessment and dollar amount of real estate taxes. Also include assessments for the five previous years and comment on consistency of assessments, practices and procedures. Assessments for land and structures should be listed separately. If the property is registered under Chapter 61, 61A or 61B, the report must include the full assessment and tax as well as the reduced assessment and tax. If the property is not taxed, estimate the assessment as if the property were subject to taxation, state the rate and give the dollar amount of the tax estimate.
- F. Insurance - If the Appraiser determines value by the income approach then the Appraisal Report should present the estimated rate per thousand and the annual cost of adequate insurance coverage (not necessarily present coverage).
- G. Public Land Use Controls: The Appraiser should make an exhaustive review of laws and regulations that affect the subject property and acknowledge and relate them to the Appraiser's final value conclusions.
- a. Zoning - Include, as an exhibit or in the addenda, a copy of the applicable sections of the zoning regulations in effect as of the date value is certified, and the date on which the regulations became effective. Describe the zoning for the subject property and for comparable properties; and reveal whether the zoning regulations allow pork chop lots, cluster developments, condominiums, cooperatives or other alternative development approaches. Indicate whether limited development options would enhance value where, for example, higher lot values for buildable land result if non-buildable land is designated as permanent open space, or where a greater net value results from sales of oversized lots utilizing only existing street frontage. If the subject property is not zoned, state what the zoning would be under private ownership. If rezoning is imminent, the background and status of the matter should be described. Also indicate the likelihood of issuance of a variance or approval of a change in zoning where such a variance or change could affect the Highest and Best Use of the subject property. The Appraiser should not unduly speculate; any conclusion that a zoning change may occur or variance would be issued must be clearly supported and explained.
 - b. Subdivision Rules and Regulations - Where Highest and Best Use of the subject property is deemed to be a subdivision, relevant sections of the current local Subdivision Rules and Regulations must be cited, and copies provided (showing date on which they became effective) including: class of roads, width of rights of way, width of paved surfaces, slope limitations, dead-end road limitations, utilities requirements, sight-stopping distances, intersecting curve radii, and cul-de-sac radii.
 - c. Wetland Regulations - If the property is potentially subject to the jurisdiction of the United States Rivers and Harbors Act (33 USC Section 404); the Massachusetts Wetland Protection Act (MGL Chapter 131, Section 40); the Massachusetts Wetlands Restriction Act (MGL Chapter 130, Section 105); or a city or town wetlands by-law, the areas within their jurisdiction and the activities regulated thereby must be discussed, and their impact on the valuation of the subject property determined.
 - d. Flood Plain Regulations - If the subject property lies in any federal flood hazard district, a flood plain map must be included showing the relationship of the subject property to the district, and the impact on the valuation of the subject property.
 - e. Water Resource or Aquifer Protection Districts - If the subject lies in a water resource or aquifer protection district, a map must be included showing the relationship of the subject property to the district, together with a description of the regulations and their impact on the value of the subject property.
 - f. Other Overlay or Floating Zones - The Appraiser should investigate whether other overlay districts or protective zones have been created which may impact the subject property, and determine their effect upon its value.
 - g. State Sanitary Code (title 5)/Board of Health Regulations If the Appraiser has reason to believe that all or part of the subject property is suitable for development and there is no municipal sewer available to the site, the Appraiser should investigate the local regulations concerning minimum standards for placement and capacity of septic systems, as well as the acceptable percolation rate. If percolation tests are not performed on the site, the Appraiser should submit soil survey maps of the site and identify the types of soils found. If soil maps are not available, or if the Appraiser has concluded the highest and best use of the subject does not include development, a report from a soil scientist is required to indicate (a) the types of soils found on the subject property, (b) whether the site is capable of supporting operational septic systems, and (c) limitations, if any, of the soil types found on the property. If sewer is available to the subject, or if the property may or must connect to sewer, the Appraiser should investigate and report whether new connections to the system are being accepted; whether any regulations or phasing in hook-ups control new connections; whether the town system has sufficient capacity, or sufficient capacity is planned or expected, and within what timeframe.

IV. ANALYSIS AND CONCLUSIONS

- A. Highest and Best Use: The Report must state the Highest and Best Use or combination of uses that can be made of the property (land and improvements) for which there is a current market. The analysis should include a discussion of other logical uses considered and the reasons why the property being appraised lends itself to the selected use. If the Highest and Best Use is different than the present use, the Appraiser should discuss how the property being appraised is available, suitable, adaptable and in demand for the new use. The valuation should be based upon the stated Highest and Best Use. If the Highest and Best Use is based on a zoning change, variance, special permit or subdivision plan approval, the Appraiser should have concluded that there is a substantial likelihood that the required zoning relief would be granted and the Appraiser should set forth the basis of that opinion in the Report. In the event of a partial acquisition or taking, the Highest and Best Use of the remaining portion of land should be stated, including the reasons why the Highest and Best Use remains the same or has changed by virtue of said partial acquisition. This determination must be undertaken in conformance with a Highest and Best Use analysis described herein.
- B. Value Estimate by Market Approach: This section of the Report should determine market value of the subject property according to the following analyses.
- a. Direct Sales Comparison - The Appraiser's opinion of the value of the land must be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. In general, a minimum of five comparable sales is required. In special circumstances, however, a lesser number may be used. Where a lesser number is used, acceptable reasons must be given why other comparable sales are not available. No comparable sales should be used which are older than three years, except under unusual circumstances, which circumstances should be fully explained in the Report. All comparable sales used must be personally inspected and photographed by the Appraiser and should be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale, and the Report should indicate by whom confirmation was given. Include these references in the Report addenda. The following information and steps must be included:
- i. A summary of comparable sales (lots and acreage) and perimeter sketches (include in Addenda);
 - ii. A map showing the location of the comparable sales (and the subject property, if appropriate);
 - iii. A table or chart showing all relevant adjustments, including changed market conditions, or time. Care should be taken to qualify sales of improved property to eliminate price increases or decreases due to exceptional additional, renovation, rehabilitation, casualty or depreciation of the improvements; and
 - iv. A discussion in detailed, narrative form, discussing such factors as:
 - time
 - location (desirability, view, etcetera)
 - zoning and other land use controls
 - frontage (water or road)
 - topography, including soil type
 - utilities (water, gas, electric, sewer)
 - cost of extending or installing utilities
 - financing (mortgage back, etcetera)
 - proposed use intended by the grantee at time of
 - acquisition and present use
 - whether it is a contingency sale based on future
 - development of individual lots - the adjustments must not be excessive in relation to the type of property being appraised and the market data available.
 - v. Sales from neighboring towns may be used if necessary, providing that adjustments are made for different market characteristics, zoning, and other relevant factors.
- b. Cost of Development Approach - Where the direct sales approach cannot account for the development potential of the subject property, determine the value of the property by use of the development less costs method (a/k/a "cost of development" or "anticipated use" method). Where such method is employed, include the following steps and information:
- i. Determination of the gross sales value of each lot within the subdivision based on data collected by the direct sales approach, and determination of the net value to the developer after deducting costs (e.g., engineering, construction, marketing, legal, financial and other carrying costs), as well as a percentage for the developer's profit (i.e., return on investment). In determining net value to the developer, extreme care must be exercised in estimating annual cash flow: front end costs may make the use of averages inappropriate. Also, the discount rate must primarily reflect the discounted current value of future income. The risk factor in a theoretical subdivision must be accounted for in the developer's profit rather than in the discount rate.
 - ii. Confirmation of cost figures with professionals in the pertinent field and with local developers.
 - iii. Substantiation of development capacity of the subject property through engineering reports and land use planning.
 - iv. If a separate land planning element of the Report is not prepared, a sketch or plan showing the subdivision of the subject property to illustrate the number, location and size of the lots upon which the Report is based must be included.
- c. Value Comparison and Summary
- i. The estimate of value arrived at by means of the Development Approach should be compared on a per acre basis with the value arrived at by the Direct Sales Comparison Approach.

- ii. If the values do not closely agree, the reason for the divergence must be fully explained.

This section may be omitted if the Appraiser determines that use of the market approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- C. Value Estimate by Cost Approach: This section must be in the form of commutative data concerning construction or building materials arranged in sequence (i.e., original cost, depreciation, and current values) and including reproduction or replacement cost, and must state the source (book and page if a national service) of all figures used. If an acquisition by eminent domain is possible, the Appraiser should employ a cost estimator or engineer to determine the cost new. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, should be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

This section may be omitted if the Appraiser determines that use of the cost approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- D. Value Estimate by Income Approach: This section of the Report must include adequate factual data to support each figure and factor used and must be arranged in detailed form to show at least (a) estimated gross economic rent or income, (b) allowances for vacancy and credit losses; and (c) itemized estimate of total expenses, including reserves for replacements. All data must be source documented and justified. In reference to comparable rental properties, include the name of the lessor, the lessee, the terms and date of the lease, and verification thereof.

Capitalization of net income must be based upon the type of property and location similar to the subject property. The capitalization technique, method and rate used should be fully explained in narrative form, supported by a statement of sources of rates and factors. Include adequate documentation to support the income, expenses, interest rate, remaining economic life and capitalization rate. Where it is determined that the economic rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

This section may be omitted if the Appraiser determines that use of the income approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- E. Interpretation and Correlation of Estimates: Interpret the foregoing estimates and should state the reasons why one or more of the conclusions reached are indicative of the market value of the property. Include a summary of the data seen by the Appraiser to be most pertinent to the appraisal assignment. A clear explanation of how the data are interpreted, weighted and mathematically treated to reach the value conclusion must be provided.

- F. Less than Fee Acquisitions: Where the appraisal assignment is for determination of the value of less than fee interests in land (e.g., conservation restrictions), the Appraiser must determine the value of this interest by use of the before and after method. The Appraiser must fully detail the analysis of the highest and best use of the subject property without the restriction or easement as described herein, and clearly explain any changes in the highest and best use after imposition of the restriction or easement.

- G. Severance Damages: If the property being appraised in a partial acquisition or taking, or is a separate parcel but physically contiguous to other land of the owner, or is under the same ownership but physically non-contiguous to other land of the owner (but which may add value to the non-contiguous parcel, e.g., by providing access to a body of water), severance damages must be fully described and discussed. The method of value estimation should be the before and after method. The amount of the severance damages should be determined mathematically as well as described in narrative form.

- H. Enhancement: The Appraiser should investigate and determine whether the acquisition will enhance the value of the remaining property of the owner. If so, the method of value estimation must be the before-and-after method. The Report must set forth the enhancement value separately, with a full discussion and analysis of the factors giving rise to the enhancement.

- I. Changes in Valuation Caused by the Public Use or Improvement: Notwithstanding subsections F. and G. above, any change in the fair market value of real property prior to the date of valuation caused by the public use or improvement for which such property will be acquired, or by the likelihood that the property would be acquired for such use or improvement, will be disregarded in determining fair market value of the property.

V. EXHIBITS AND ADDENDA TO BE INCLUDED IN EACH REPORT

All maps and plans may be bound as facing pages opposite the description, tabulation or discussions they concern.

- A. Subject Location Map (within the city or area)
- B. Comparative Map Data (show geographic location of the subject property and the comparative parcels analyzed).
- C. Detail of the Comparative Data

- a. Color Photograph of the Property (in the case of unimproved woodland, a photograph across the frontage showing the road frontage and surrounding area)
- b. Grantor
- c. Grantee
- d. Date of Sale
- e. Recording Data
- f. Source of Information
- g. Breakdown of Sales Price
 - i. amount to land
 - ii. amount to improvements
- h. Terms of Sale
- i. Improvements at Time of Sale
- j. Use of property
- k. Zoning
- l. Description of property
 - i. size
 - ii. shape
 - iii. amount of frontage
 - iv. topography
 - v. utilities available
 - vi. amenities
 - vii. assessed value
- D. Plot Plan: The plot plan should include the approximate location of any improvements, easements, right of ways, flood plain zoning lines, and/or other encumbrances that exist or have been placed upon the property.
- E. Deed
- F. Floor Plans (when needed to explain the value estimates)
- G. Flood Plain Zoning Map (where applicable)
- H. Local Zoning (excerpts as required to support the appraisal)
- I. References (detail the sources from which the Appraiser drew information contained in the Report. Where information is from an office or individual, the appraiser should identify the name, address, capacity and telephone number of the source of such information. Also list junior appraisers, researcher, etc. who assisted in preparation of the report)
- J. Other Pertinent Exhibits (e.g., timber cruise, land planning report, engineering report)
- K. A Resume of Qualifications (for all appraisers and other experts contributing to the determination of value in the Report).
- L. Owner's Property Inspection Certificate: The appraiser must invite the landowner or his or her representative to accompany the appraiser during inspection of the property. To allow the landowner time to make the necessary arrangements, the invitation should be made appropriately in advance of the planned inspection date. Reasonable efforts should be made to include the landowner or his or her representative in the inspection. The appraiser should consider any information the landowner may provide which is relevant to the issue of the value of the property inspected. However, the appraiser must use his or her best judgment as to the usefulness of any information provided by the landowner. See Exhibit 2.

VI. REPORTS OTHER THAN COMPLETE, SELF-CONTAINED

Reports other than Complete, Self-Contained appraisal reports must be prepared in compliance with the then current Uniform Standards of Professional Appraisal Practice (USPAP). Such reports may include complete appraisals in Summary or Restricted reports, or limited appraisals in Self-Contained, Summary or Restricted reports.

EXHIBIT 1

CERTIFICATE OF VALUE

OWNER(S):

ADDRESS/LOCATION OF PROPERTY:

I, _____ HEREBY CERTIFY THE FOLLOWING: THAT ON _____, I PERSONALLY MADE A FIELD INSPECTION OF THE PROPERTY HEREIN APPRAISED AND HAVE AFFORDED THE OWNER THE OPPORTUNITY TO ACCOMPANY ME ON THIS INSPECTION;

That to the best of my knowledge and belief, the statements contained in the appraisal here set forth are true, and the information upon which the opinions expressed herein are based in correct, subject to the limiting conditions therein set forth;

That I understand that such appraisal may be used in connection with acquisition of the subject property by the City/Town of Massachusetts;

That such appraisal has been made in conformity with the appropriate state laws, regulations, policies, specifications and procedures;

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein;

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised; and

THAT MY OPINION OF THE VALUE OF THE PROPERTY AFFECTED BY THE PROPOSED ACQUISITION OR TAKING, AS OF THE _____ DAY OF _____, 20__ IS _____, AND THAT THE CONCLUSIONS SET FORTH IN THIS APPRAISAL ARE BASED UPON THE EXERCISE OF MY INDEPENDENT PROFESSIONAL JUDGMENT.

SIGNATURE _____

DATE _____

EXHIBIT 2: OWNER'S PROPERTY INSPECTION CERTIFICATE

1. _____ (_____) _____
Name(s) of Supposed Owner(s) Telephone Number with Area Code

Address

Town/City State Area Code

2. Please check appropriate line

_____ I wish to accompany the appraiser on an inspection of my property.

_____ I wish to have my representative accompany the appraiser(s) on an inspection of my property. (Please fill in Item 3.)

_____ I do not wish to accompany the appraiser(s) on an inspection of my property.

3. _____ (_____) _____
Name of Authorized Representative Telephone Number with Area Code

Address

Town/City State Area Code

4. The following individuals and/or entities occupy the premises in accordance with an agreement as indicated (lease, life estate, etc.):

a. _____ b. _____
Name of Individual or Entity Name of Individual or Entity

_____ Occupied Premises _____ Occupied Premises

_____ Type of Agreement _____ Type of Agreement

5. I certify that I have given the above-referenced tenants or occupants notice of the appraiser's inspection of the property.

Name(s) of Supposed Owner(s)

6. I hereby authorize the appraiser to enter and inspect the property, after reasonable notice, for the purposes of preparing an appraisal.

Owner's Signature Date

301 CMR 5.00: SELF-HELP AND URBAN SELF-HELP PROGRAMS

Section

- 5.01: Authority
- 5.02: Purpose
- 5.03: Definitions
- 5.04: Eligibility
- 5.05: Project Application and Selection
- 5.06: Project Conditions
- 5.07: Project Costs
- 5.08: Post-Completion Responsibilities
- 5.09: Conversion
- 5.10: Guidance Documents
- 5.11: Severability

5.01: Authority

301 CMR 5.00 is promulgated pursuant to M.G.L. c. 21A, § 2, M.G.L. c. 132A, § 11, as amended, St. 1977, c. 933, as amended, and St. 1996, c. 15.

5.02: Purpose

301 CMR 5.00 is promulgated to implement the Self-Help and Urban Self-Help grant programs by establishing uniform grant application, selection procedures and program requirements. Both the Self Help and Urban Self Help grant programs have two separate programs: an annual program in accordance with the grant cycle of 301 CMR 5.05(4); and a rolling program subject to periodic notice of availability as described in 301 CMR 5.05(5).

5.03: Definitions

Division means the Division of Conservation Services in the Executive Office of Environmental Affairs.

Extreme Critical Need means a state of financial hardship where a municipality has an unemployment rate exceeding 10% or where a major business or facility closing has caused devastating economic dislocation and a substantial decrease in the municipality's tax base.

Major State Public Institution means an institution including, but not limited to state and county prisons, mental health facilities, regional solid waste facilities, and federal and state military reservations. Institutions of public higher learning are excluded.

Open Space and Recreation Plan means a bound document containing the following: a summary; statement of purpose including planning process and public participation; community setting; environmental inventory and analysis; inventory of lands of conservation and recreation interest; community goals; analysis of needs; goals and objectives and five-year action plan; maps and letters of comment from the chief municipal officer; planning board and regional planning agency. Guidelines and a workbook for developing plans are available from the Division.

Particular Environmental Sensitivity means Projects located within a state-designated Area of Critical Environmental Concern ("ACEC"); or containing significant plant or animal habitat, a vernal pool, or endangered, threatened or special concern plant or animal species as certified by the Massachusetts Natural Heritage Program office; or, containing known, important archeological or historic resources and on or eligible for inclusion in the State Register of Historic Places. Particular Recreational Importance means, but is not limited to, a project that is the "flagship" or centerpiece of a community's park and recreation system; an acquisition project that significantly addresses an imbalance between the available recreation acreage per capita and the National Recreation and Park Association Standards for such acreage; a coastal or inland swimming facility; and unique recreational facilities such as zoos.

Project means the acquisition, planning, or design of conservation land reimbursed by the Self-Help Program, or the acquisition, development or renovation of parkland reimbursed by the Urban Self-Help Program.

Project Selection System means a project rating system based on a 100-point scale. The Self-Help Project Selection System awards 50 points based on demographic factors of the applicant community and 50 points based on project quality. The Urban Self-Help Project Selection System awards 40 points based on demographic characteristics of the applicant community and 60 points based on project quality. Each program's selection system awards six points for implementation of the community's open space plan and up to ten bonus points if the applicant community has or plans to site a major state public institution or has passed a debt limit override vote of open space purchases in the preceding two years.

Projects of Particular Environmental Sensitivity may be eligible for points in the rating system, and possibly an increase in the reimbursement rate. Applicants claiming eligibility for additional reimbursement for projects of Particular Environmental Sensitivity must include written comments from any of the following state agencies, as applicable: Coastal Zone Management, the Department of Conservation and Recreation's ACEC program, the Massachusetts Natural Heritage and Endangered Species Program, or the Massachusetts Historical Commission. The Secretary shall develop and may review and modify, at the Secretary's discretion, selection

systems for the Self-Help, Rolling Self-Help, Urban Self-Help, and Rolling Urban Self-Help grant programs. The selection systems shall be set forth in Guidance Documents available from the Division.

Regional Project is a recreation facility that serves a population of at least 35,000 people who reside within a 25-mile radius of the facility, has parking for at least 100 cars and adequate comfort stations. Regional Projects generally provide multiple opportunities for picnicking, walking, canoeing, boating, fishing, children's recreation, and swimming. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for regional projects are available from the Division.

Rolling Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Rolling Urban Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Urban Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Secretary means the Secretary of Environmental Affairs or the Secretary's designee.

Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of the allowable costs towards the purchase of land for conservation and passive recreation purposes.

Special Advisor for Environmental Justice Issues means a person so named and designated by the Secretary to review Urban Self-Help grant applications and advise the Secretary on the importance of each application in addressing environmental justice concerns.

Small Town Project is a Project which qualifies only for a maximum of \$50,000 where a community does not meet the population criteria of a city or town of over 35,000 and is not undertaking a Regional or Statewide Project.

Statewide Project is a recreation facility located within a one hour driving time from more than one Metropolitan Statistical Area, accommodates at least 200 vehicles, provides adequate comfort stations, and will also provide for more dispersed or uncommon recreation opportunities such as equestrian trail use, overnight camping, nature center programs, golf, group picnicking, large beach use, boating, skiing, and live animal viewing such as zoos. Any Project located on Nantucket Island, Martha's Vineyard, and the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham is considered statewide regardless of the project scope. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for statewide projects are available from the Division.

Urban Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.

5.04: Eligibility

(1) Planning Requirement. No application will be considered by the Secretary until the Applicant has filed an approved Open Space and Recreation Plan or submits a draft plan with the preliminary application. If a municipality's plan has not been approved by the Secretary at the time of the project selection process, there will be no rating points awarded for plan implementation under the Project Selection System.

(2) Self-Help Program.

(a) Only municipalities with Conservation Commissions duly established pursuant to M.G.L. c. 40, § 8C are eligible to participate in the Self-Help Program.

(b) Self-Help Program grants are available to fund the acquisition of land for conservation purposes, and to plan or design suitable public outdoor facilities for these properties.

(3) Urban Self-Help Program.

(a) Only municipalities with a park, playground, or recreation commission, or any combination thereof, duly established pursuant to M.G.L. c.

45, § 2, and a Conservation Commission duly established pursuant to M.G.L. c. 40, § 8C, are eligible to participate in the Urban Self-Help

Program.

(b) Urban Self-Help Program grants are available to fund the acquisition of land for park and outdoor recreation purposes, and for the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.

(c) The following municipalities are eligible to apply for Urban Self-Help grants:

1. Any city or a town of over 35,000 year round inhabitants; or

2. Municipalities with a population of less than 35,000 year-round inhabitants that:

a. propose Statewide or Regional Projects and demonstrate regional or statewide usage to the satisfaction of the Secretary; or

b. propose a Small Town Project.

(d) The Special Advisor for Environmental Justice Issues shall publicize in urban areas the existence of the Urban Self-Help Program, and publicize, make available and assist municipalities with interpreting the Urban Self-Help Program guidelines.

(4) Affirmative Action and Accessibility. To be eligible for assistance, municipalities must be in compliance with a Civil Rights Review Comment from the Massachusetts Commission Against Discrimination, and Executive Order No. 215, concerning Disbursement of State Development Assistance for Affordable Housing. Municipalities must also show that all parks and recreation facilities are in compliance with the Americans with Disabilities Act (P.L. 101-336), formerly required under Section 504 of the Rehabilitation Act of 1973, P.L. 93-112 (Federal Handicapped Accessibility Guidelines), as amended; and Department of Interior Regulations 43 CFR 17, Subpart B, or show how and when such facilities will be brought into compliance with the above regulations.

(5) Extreme Critical Need. When a municipality can demonstrate that it has extreme critical need or that its project is one of particular recreational importance as defined in 301 CMR 5.03, it may receive up to 10% more reimbursement of the total project cost. No more than five municipalities per year will be awarded this additional funding.

(6) Upon request, the municipality or its authorized representative shall provide all records, books, papers, documents, or other data relating to the Program grant to the Secretary for examination.

(7) Each program participant shall cause work on the Project to proceed within a reasonable period of time after receipt of notification from the Division that funds have been approved and will pursue the Project to completion with reasonable diligence.

5.05: Project Application and Selection

(1) Application Step Procedures. Applications shall be submitted to the Secretary in accordance with the Application Guidelines of the Division, which are available upon request.

(2) Appraisal Reports. Applications for acquisition assistance shall be accompanied by an appraisal report prepared according to the Appraisal Report Guidelines of the Division, which are available upon request.

(3) Project Selection System. In order to distribute limited Self-Help and Urban Self-Help funds among an overwhelming number of applicants, the Secretary has developed a review process called the Project Selection System. The Project Selection System considers a number of demographic, social, environmental, and project quality factors in order to identify those projects which best protect natural resources or recreation amenities where appropriate in communities that have the greatest need for financial assistance and that have made efforts to implement their open space plans in coordination with local planning for future growth. The Project Selection System Guidelines for each grant program are available upon request from the Division.

(4) Self-Help Program and Urban Self-Help Program Grant Cycle.

The annual filing deadline for applications shall be June 1 of each year. The Secretary may alter or extend this deadline provided that public notice of the change is given at least 90 days in advance of the new deadline. Grants shall be made only once in the annual fiscal cycle; however, grants may be adjusted after the award for cause.

(5) Rolling Program Specific Requirements

- (a) Rolling Self-Help Program grants must meet all requirements applicable to the Self-Help grant program, excluding the grant cycle requirement as described in 301 CMR 5.05(4).
- (b) Rolling Urban Self-Help Program grants must meet the all requirements applicable to the Urban Self-Help grant program, excluding the grant cycle requirement as described in 301CMR 5.05(4).
- (c) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Self-Help Program.
- (d) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Urban Self-Help Program.
- (e) The Secretary shall provide notice of availability of funding and the associated filing deadline for any grant funding offered under either the Rolling Urban Self-Help or the Rolling Self-Help Programs. Such notice shall be effective when published either in the Massachusetts Register or the Environmental Monitor.
- (f) The Secretary may announce rolling grant rounds and accept applications from time to time and subject to available funding.

5.06: Project Conditions

(1) Off-street parking and land use and management plans may be required at the discretion of the Secretary depending upon the size of the project area, its intended use(s), the nature of the resource(s), and the availability of public transportation and on-site parking.

(2) Additional project conditions may be required by the Secretary to enhance public benefit or protection of natural resources.

(3) Program participants shall provide for fair and equitable treatment of persons and businesses to be displaced as a result of the project, and shall comply with M.G.L. c. 79A, as amended, Titles II and III of the federal Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) where concurrent federal financial assistance is sought or intended for subsequent project phases.

(4) Property acquired or improved with Self-Help Program assistance shall be under the care, custody, and control of the Conservation Commission. Property acquired or improved with Urban Self-Help Program assistance shall be under the care, custody, and control of either the Conservation Commission or the Recreation Commission.

(5) A failure to comply with the conditions of any grant contract may result in the reduction, suspension, or withdrawal of awarded grant funds.

5.07: Project Costs

(1) Each grant program provides reimbursement of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration or rehabilitation of land for park and outdoor recreation proposes. The maximum reimbursement percentage allowed for an approved project based on the municipality's equalized valuation per capita decile rank among all Massachusetts municipalities as determined by the Secretary of Administration and Finance. A municipality's rank, and therefore its percentage of reimbursement potential, may change annually based on its increase or decrease in property valuation and population growth. The Secretary may reduce the maximum reimbursement percentage to allow for a more equitable distribution of limited funds among all municipalities. The annual reimbursement schedules are available from the Division.

(2) Subject to the approval of the Secretary, all reasonable costs associated with acquisition projects shall be eligible for reimbursement. Costs for appraisals, title searches, recording fees, surveys, costs associated with 301 CMR 5.06(3), as well as the actual approved purchase price are deemed to be eligible acquisition project costs. In addition, for Urban Self-Help Projects, the actual approved purchase price, engineering, design, construction, and construction supervision are deemed eligible project costs, however, the Secretary shall retain the right to set a fixed limit on the reimbursement of Project costs. Additional information on reimbursement procedures is available from the Division upon request.

(3) As required by M.G.L. c. 132A, § 11, reimbursement under the Self-Help Program will occur only after the participant has expended an amount equal to the total cost of the project and not until the project has been completed to the satisfaction of the Secretary. Billing procedures and forms are available from the Division.

(4) Federal funding sources such as Community Development Block Grants or Revenue Sharing that are defined by the federal government to be local money may be used to match program funds. Program reimbursements for Urban Self-Help projects may be paid periodically upon request for payments made by a municipality. Billing procedures and forms are available from the Division.

(5) The Division encourages charitable contributions for conservation purposes either in cash or real property. While real property contributions are not reimbursable, cash contributions may be utilized as the municipality's share of the project providing said cash contribution is deposited into a separate municipal account such as authorized under M.G.L. c. 40, § 5, Cl. 51 and is expended therefrom as part of the municipal appropriation for the acquisition or development. Cash contributions returned to the municipality after acquisition are also encouraged. If such contribution is prearranged or likely to occur, the appraisal process should be closely scrutinized, to avoid even the appearance of impropriety. Participants and potential donors should carefully familiarize themselves with M.G.L. c. 268A, the Conflict of Interest law. Donors must not exert undue influence in selling their property and it must be sold at a fair price in order to avoid a conflict of interest.

5.08: Post-completion Requirement

(1) Operation, Maintenance, and Reasonable Use Limitations. Property acquired or developed with Program assistance shall be operated and maintained in accordance with standards and guidelines of the Division. In accordance with the applicable program contract, participants may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Program assistance as necessary for maintenance or preservation.

(2) Nondiscrimination. Property acquired or developed with Program assistance will be open to entry and use by all persons who are otherwise eligible regardless of race, color, national origin, sex, sexual preference, age or disability.

(3) Nondiscrimination on the Basis of Residence.

(a) Discrimination on the basis of residence, including preferential reservation, membership or annual permit systems, or user fees is prohibited on the Project site unless this provision is waived by the Secretary.

(b) The Secretary will approve or deny all proposed fee or access limiting systems. Waivers will not be granted which are inconsistent with the Federal Land and Water Conservation Fund Act, P.L. 88-578, Section 6(f)(8), 16 U.S.C. § 4601-4. *et seq.*

5.09: Conversion and Reversion

(1) Conversion. Property acquired or developed with assistance from the Self-Help or Urban Self-Help Program shall be retained and used at all times for open space purposes in accordance with M.G.L. c. 132A, § 11, and St. 1977, c. 933. Any property so acquired or developed shall not be wholly or partly converted to other than public outdoor recreation or conservation purposes without the approval of the Secretary. Converted property shall comply with Article 97 of the Massachusetts Constitution and shall be replaced with land of at least equal fair market value and of reasonably equivalent usefulness. The Secretary may disapprove conversion requests or reject proposed property substitutions. Grant contracts, at the discretion of the Secretary, may be subject to specific performance.

(2) Reversion. Property acquired or improved with Program funds authorized by St. 1996, c. 15 shall be retained and used at all times for open space purposes in accordance with M.G.L. c. 132A, § 11, as amended, or St. 1977, c. 933, as amended. In the event that the property ceases to be used, either in whole or in part, for such purposes, all interest in the property shall revert to the Commonwealth, unless the Secretary demands specific performance of the grant contract.

(a) Owners of property so acquired or improved shall notify the Secretary in writing of any change in use or potential change in use of the property that is inconsistent with said open space purposes. The owner shall have 90 days from the date written notice was received by the Secretary to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert. Upon receipt of written notice, the Secretary may review the circumstances of the property and determine that reversion of the property is not appropriate or essential to the protection of public open space, and find that the provisions of 301 CMR 5.09(1) shall apply.

(b) If the Secretary finds that a property acquired or improved with Program funds has ceased to be used for such open space purposes, the Secretary shall notify the owner of the property in writing of this basis. The owner shall have 90 days from the date written notice was mailed to the owner to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert.

5.10: Guidance Documents

The Guidelines or Guidance Documents referenced herein are available free of charge to municipalities upon request from the Division.

5.11: Severability

The provisions of 301 CMR 5.00 are severable, and if any provision or application thereof is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability of the remainder of 301 CMR 5.00.

REGULATORY AUTHORITY

301 CMR 5.00: M.G.L. c. 21A, § 2; c. 132A, § 11; St. 1977, c. 933; St. 1987, c. 564, §§ 8 and 9; St. 1996, c. 15, § 2.

Formatting Note: 301 CMR 5.00 occupies pages 15 through 22 of 301 CMR EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS. (PAGES 23 THROUGH 42 ARE RESERVED FOR FUTURE USE.)

ATTACHMENT A: PROJECT BOUNDARY MAP GUIDELINES

The Executive Office of Energy and Environmental Affairs and the National Park Service require a dated project boundary map that clearly delineates the permanently protected park, recreation or conservation land. The map must be submitted prior to project approval, and may be changed prior to final payment without triggering a conversion.

Project area – At a minimum:

1. The entire area acquired in an acquisition project;
2. The entire park that was renovated or developed with LWCF assistance.

Ensure that the recreational usefulness and attraction of the new protected area is viable on its own and independent of the surrounding or adjacent areas. If it is dependent upon other areas for access, those areas should also be included in the protected area.

A formal surveyed boundary plan showing metes and bounds is best, but not necessarily required.

The project area must be shown in enough detail to be legally sufficient to identify the protected area. These methods can be used in lieu of a survey plan:

- Assessors map with deed references
- Adjoining ownerships
- Adjoining easements of record
- Adjoining water bodies or other natural landmarks
- Government survey

Boundary map requirements:

1. Include the park name and project number and date of map preparation.
2. The map should have a scale, north arrow and the project boundary should be outlined in red.
3. Identify the owner of the land (i.e., *Municipal Conservation Commission*).
4. Identify any pre-existing uses (i.e. buildings) that should be excluded from the legally protected area.
5. Identify general ownership and land use of adjacent properties (i.e., public conservation or recreation land, residential, commercial, and industrial land uses).
6. Clearly identify and describe all public access points to the project area.
7. Show outstanding rights and interests in the area held by others and note the term remaining on the lease. Known easements, deed or lease restrictions, reversionary interest, etc. are to be indicated. Those outstanding rights and interests which, in the opinion of this office, would not adversely impact the utility and viability of the recreation or conservation area if exercised and not intended to be included under the conversion provisions should be specifically identified. These are typically utility easements. This office must be notified if any changes are made to these easements after the project is completed.
8. Clearly show key features and uses such as:
 - Number of acres acquired or developed
 - Named Roads
 - Bodies of water
 - Structures and improvements
 - Utilities
 - Restrictions, easements and rights-of-way
 - Wetlands
 - Trails
 - If the subject parcel is part of, adjacent to, or in close proximity to an existing protected area(s), also show the location of these protected sites including the project number and name for those sites.

Any other characteristics that aid in understanding the protected outdoor recreation resources.

ATTACHMENT B: REQUIRED IF PROJECT IS SELECTED FOR FEDERAL LWCF FUNDING

LWCF Proposal Description and Environmental Screening Form

The purpose of this Proposal Description and Environmental Screening Form (PD/ESF) is to provide descriptive information about Land and Water Conservation Fund (LWCF) proposals for NPS review and decision. This form also serves as the administrative record that supports the pathway used to document the National Environmental Policy Act (NEPA) analysis for LWCF proposals. States and/or project sponsors should use this PD/ESF early in the planning process for any proposal that will be submitted for NPS review and decision. The ESF portion is a tool for use during project planning that will help to identify potential environmental impacts and issues that will ultimately inform the decision to use a categorical exclusion (CE), or to conduct an Environmental Assessment (EA) or Environmental Impact Statement (EIS) process. The ESF can also be used to document potential impacts and planned mitigation from previously conducted and still viable environmental reviews.

Project Name	
Local Sponsor	
Description	

Summary of Previous Environmental Review

Describe any prior environmental review undertaken at any time for this proposal or related efforts that could be useful to understanding potential environmental impacts. Consider previous local, state, federal (e.g. HUD, EPA, USFWS, FHWA, DOT) and other environmental reviews. At a minimum, address the following:

1. Date of review.
2. Purpose for the review and for whom.
3. Project scope and proposed actions and alternatives.
4. Who was involved in identifying resource impact issues and developing the proposal, including the interested and affected public, government agencies, and Indian tribes?
5. Environmental resources analyzed and determination of impacts.
6. Any mitigation measures stipulated in the plan to be part of the proposed action.
7. Public comment periods (how long, when in the process, who was invited to comment) and agency response to public comments.
8. Any formal decision regarding degree of potential impacts to the human environment.
9. Was the LWCF federal action and/or any other federal actions analyzed/reviewed in previous environmental reviews?
If so, how and what impacts were identified? Provide specific references.

Use resource impact information generated during previous environmental reviews and from recently conducted site inspections to complete the Environmental Screening Form (ESF) portion of this PD/ESF under Step 6. Your responses should indicate your proposal's potential for impacting each resource as identified in the previous environmental review, including a reference to where the analysis can be found in the document. If the previous environmental review proposed actions to mitigate impacts, summarize the mitigation for each resource as appropriate. The environmental review document(s) must be included with this PD/ESF in the proposal package submitted to NPS for federal review.

Environmental Screening Form (ESF)

This ESF portion of this PD/ESF is a working tool for planners and decision-makers to use to identify the degree of potential impacts to resources that may occur as a result of federal approval of the proposal. It also serves as the administrative record documenting the project sponsor's efforts to identify and consider impacts during proposal development. Your ESF responses may change as the planning process refines the proposal that will ultimately be submitted along with the final completed ESF for federal review and decision.

As early as possible in your planning process, consider how your proposal/project may have direct, indirect and cumulative impacts on the human environment. By early identification of possible environmental resource impacts, the information will be useful during proposal development, including ways to lessen impacts. Initiating or completing environmental analysis after a decision has been made is contrary to both the spirit and letter of the law of the National Environmental Policy Act.

The ESF should be completed with input from resource experts and in consultation with relevant local, state, tribal and federal governments, as applicable. The interested and affected public should be notified of the proposal and invited to provide input as well. At a minimum, a site inspection of the affected area must be conducted by individuals who are familiar with the type of affected resources, possess the ability to identify potential resource impacts, and to know when to seek additional data when needed.

At the time of proposal submission to NPS for federal review, the completed ESF should reflect the project sponsor's final determination of the extent to which the proposal will impact the list of resources on the form. The results of the completed ESF will inform the State's choice of which NEPA pathway to follow, i.e., categorical exclusion (CE), environmental assessment (EA), environmental impact statement (EIS). Also, the completed ESF will identify the resource topics and issues that should be presented and analyzed in an EA or an EIS if required. Consult the LWCF Manual for further guidance on LWCF and NEPA.

.....

The ESF contains two parts that must be completed:

A. Impacts to Environmental Resources

B. Mandatory Criteria

In Part A, for each environmental resource topic, choose an impact estimate level (none, negligible, minor, exceeds minor) that describes the degree of potential negative impact that may occur directly, indirectly and cumulatively as a result of federal approval of your proposal. These impact levels should be used to estimate specific impact levels on each separate resource and must be accompanied with a brief explanation of how the resource might be affected, how the impact level was determined, and why the chosen impact level is appropriate. If an environmental review has already been conducted on your proposal and it includes planned mitigation, explain this for each applicable resource and choose an impact level as mitigated. If the resource does not apply to your proposal, mark NA in the first column. You may add relevant resources (see A23) if not included in the list.

Part B presents a list of mandatory impact criteria that preclude the use of categorical exclusions. If you answer "yes" or "maybe" for any of the mandatory criteria, you must proceed to develop an EA or EIS regardless of your answers in Part Section A.

For Parts A and B **compile explanations on a separate sheet** that explain all potential negative impacts (negligible, minor and those exceeding minor) as well as the data that still needs to be determined for each of the applicable resources listed below. Describe direct, indirect and cumulative impacts as well as explain any planned mitigation already addressed in previous environmental reviews. For the Mandatory Criteria, explain all "yes" and "maybe" answers.

A. ENVIRONMENTAL RESOURCES	No Impacts or Not Applicable	Negligible Impacts	Minor Impacts	Impacts Exceed Minor EA/EIS required	More Data Needed to Determine EA/EIS required
1. Geological resources: soils, bedrock, slopes, streambeds, landforms, etc.					
2. Air quality					
3. Sound (noise impacts)					
4. Water quality/quantity					
5. Streamflow characteristics					
6. Marine/estuarine					
7. Floodplains/wetlands					
8. Land use/ownership patterns; property values; community livability					
9. Circulation, transportation					
10. Plant/animal/fish species of special concern and habitat; state/ federal listed or proposed for listing					
11. Unique ecosystems, such as biosphere reserves, World Heritage sites, old growth forests, etc.					
12. Unique or important wildlife/ wildlife habitat					
13. Unique or important fish/habitat					
14. Introduce or promote invasive species (plant or animal)					
15. Recreation resources, including parks, open space, conservation areas, rec. trails, facilities, services, opportunities, public access, etc.)					
16. Overall aesthetics, special characteristics/features					
17. Historical/cultural resources, including landscapes, ethnographic, archeological, structures, etc. Attach SHPO determination.					
18. Socioeconomics, including employment, occupation, income changes, tax base, infrastructure					
19. Minority and low-income populations					
20. Energy resources (geothermal, fossil fuels, etc.)					
21. Other agency or tribal land use plans or policies					
22. Land/structures with history of contamination/hazardous materials even if remediated					
23. Other important environmental resources that should be addressed					

B. MANDATORY CRITERIA If your LWCF proposal is approved, would it...	Yes	No	To be determined
1. Have significant impacts on public health or safety?			
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands, wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (E.O. 11990); floodplains (E.O 11988); and other ecologically significant or critical areas.			
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?			
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?			
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?			
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?			
7. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places, as determined by either the bureau or office.(Attach SHPO Comments)			
8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.			
9. Violate a federal law, or a state, local, or tribal law or requirement imposed for the protection of the environment?			
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?			
11. Limit access to access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?			
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?			

Environmental Reviewers

The following individual(s) provided input in the completion of the environmental screening form. List all reviewers including name, title, agency, field of expertise. Keep all environmental review records and data on this proposal in state compliance file for any future program review and/or audit.

- 1.
- 2.
- 3.

The following individuals conducted a site inspection to verify field conditions.

List name of inspector(s), title, agency, and date(s) of inspection.

- 1.
- 2.
- 3.